

Chapter 608

(Senate Bill 776)

AN ACT concerning

Assisted Living and Nursing Home Residents Protection Act of 2010

FOR the purpose of ~~requiring that, during a certain application process, nursing homes and assisted living facilities apply for a State criminal history records check of certain residents and check a certain registry; requiring certain facilities to require a State criminal history records check for certain residents on or before a certain date; requiring certain facilities to place certain residents in private rooms, provide certain notice to certain employees, and develop certain care plans; requiring certain facilities to provide certain individuals with a certain notice and a certain signed statement; requiring certain facilities to require certain individuals to sign a certain statement; requiring certain facilities to file certain statements for certain periods of time; requiring certain facilities to place prominently a certain notice in the facility; defining certain terms; requiring local law enforcement units to send a certain notice to certain facilities under certain circumstances;~~ expanding the duties of the Sexual Offender Advisory Board to include reviewing certain policies, procedures, impacts, and laws and making certain recommendations relating to protecting residents and employees of nursing homes and assisted living facilities and the family members of the residents from convicted sexual offenders; requiring the Sexual Offender Advisory Board to submit a certain report on or before a certain date; providing for the termination of this Act; and generally relating to the protection of residents in assisted living facilities and nursing home facilities.

~~BY repealing and reenacting, with amendments,
Article — Criminal Procedure
Section 11-709
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)~~

~~BY adding to
Article — Health — General
Section 19-2401 through 19-2404 to be under the new subtitle “Subtitle 24.
Criminal Background Check and Notice Requirements for Residents of
Assisted Living Programs or Related Institutions”
Annotated Code of Maryland
(2009 Replacement Volume)~~

BY repealing and reenacting, without amendments,

Article – Public Safety
Section 1–401(a)
Annotated Code of Maryland
(2003 Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Public Safety
Section 1–401(g)
Annotated Code of Maryland
(2003 Volume and 2009 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

~~Article – Criminal Procedure~~

~~11–709.~~

~~(a) (1) (i) Every 3 months within 5 days after a sexually violent predator completes the registration requirements of § 11–707(a) of this subtitle, a local law enforcement unit shall send notice of the sexually violent predator’s quarterly registration to the Department.~~

~~(ii) Every 6 months within 5 days after a child sexual offender completes the registration requirements of § 11–707(a) of this subtitle, a local law enforcement unit shall send notice of the child sexual offender’s biannual registration to the Department.~~

~~(2) Every 6 months, a local law enforcement unit shall send a child sexual offender’s and sexually violent predator’s updated photograph to the Department within 6 days after the photograph is submitted.~~

~~(b) (1) As soon as possible but not later than 5 working days after receiving a registration statement of a child sexual offender or notice of a change of address of a child sexual offender, a local law enforcement unit shall send written notice of the registration statement or change of address to the county superintendent, as defined in § 1–101 of the Education Article, and all nonpublic primary and secondary schools in the county within 1 mile of where the child sexual offender is to reside or where a child sexual offender who is not a resident of the State is a transient or will work or attend school.~~

~~(2) As soon as possible but not later than 10 working days after receiving notice from the local law enforcement unit under paragraph (1) of this subsection, the county superintendent shall send written notice of the registration statement to principals of the schools under the superintendent’s supervision that the~~

~~superintendent considers necessary to protect the students of a school from a child sexual offender.~~

~~(e) A local law enforcement unit that receives a notice from a supervising authority under this subtitle shall send a copy of the notice to the police department, if any, of a municipal corporation if the registrant:~~

~~(1) is to reside in the municipal corporation after release;~~

~~(2) escapes from a facility but resided in the municipal corporation before being committed to the custody of a supervising authority; or~~

~~(3) is to change addresses to another place of residence within the municipal corporation.~~

~~(d) As soon as possible but not later than 5 working days after receiving notice from a local law enforcement unit under this section, a police department of a municipal corporation shall send a copy of the notice to the commander of the local police precinct or district in which the child sexual offender is to reside or where a child sexual offender who is not a resident of the State will work or attend school.~~

~~(e) As soon as possible but not later than 5 working days after receiving a notice from a supervising authority under this subtitle, a local law enforcement unit shall send a copy of the notice to the commander of the law enforcement unit in the district or area in which the child sexual offender is to reside or where a child sexual offender who is not a resident of the State will work or attend school.~~

~~(f) A local law enforcement unit may notify the following entities that are located within the community in which a child sexual offender is to reside or where a child sexual offender who is not a resident of the State will work or attend school of the filing of a registration statement or notice of change of address by the child sexual offender:~~

~~(1) family day care homes or child care centers registered or licensed under Title 5, Subtitle 5 of the Family Law Article;~~

~~(2) child recreation facilities;~~

~~(3) faith institutions; and~~

~~(4) other organizations that serve children and other individuals vulnerable to child sexual offenders.~~

~~(G) AS SOON AS POSSIBLE BUT NOT LATER THAN 5 WORKING DAYS AFTER RECEIVING A REGISTRATION STATEMENT OF AN OFFENDER OR NOTICE OF CHANGE OF ADDRESS OF AN OFFENDER, A LOCAL LAW ENFORCEMENT UNIT~~

~~SHALL SEND WRITTEN NOTICE OF THE REGISTRATION STATEMENT OR THE CHANGE OF ADDRESS TO THE FACILITY IF THE ADDRESS OF THE OFFENDER IS IN AN ASSISTED LIVING PROGRAM FACILITY REGULATED UNDER TITLE 19, SUBTITLE 18 OF THE HEALTH GENERAL ARTICLE OR IN A NURSING HOME REGULATED UNDER TITLE 19, SUBTITLE 14 OF THE HEALTH GENERAL ARTICLE.~~

~~Article Health General~~

~~SUBTITLE 24. CRIMINAL BACKGROUND CHECK AND NOTICE REQUIREMENTS FOR RESIDENTS OF ASSISTED LIVING PROGRAMS OR RELATED INSTITUTIONS.~~

~~19-2401.~~

~~(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(B) "FACILITY" MEANS AN ASSISTED LIVING PROGRAM FACILITY REGULATED UNDER SUBTITLE 18 OF THIS TITLE AND A NURSING HOME REGULATED UNDER SUBTITLE 14 OF THIS TITLE.~~

~~(C) "IDENTIFIED REGISTRANT" MEANS AN INDIVIDUAL WHO IS REQUIRED TO REGISTER UNDER TITLE 11, SUBTITLE 7 OF THE CRIMINAL PROCEDURE ARTICLE.~~

~~19-2402.~~

~~(A) DURING THE ADMISSION PROCESS, A FACILITY SHALL:~~

~~(1) REQUIRE A STATE CRIMINAL HISTORY RECORDS CHECK FOR EACH RESIDENT WHO IS AT LEAST 18 YEARS OLD; AND~~

~~(2) CHECK THE MARYLAND SEX OFFENDER REGISTRY ON THE WEBSITE OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES TO DETERMINE IF THE APPLICANT RESIDENT IS AN IDENTIFIED REGISTRANT.~~

~~(B) ON OR BEFORE DECEMBER 1, 2010, A FACILITY SHALL REQUIRE A STATE CRIMINAL HISTORY RECORDS CHECK FOR EACH RESIDENT OF THE FACILITY WHO IS AT LEAST 18 YEARS OLD AS OF OCTOBER 1, 2010.~~

~~19-2403.~~

~~IF AN IDENTIFIED REGISTRANT IS A RESIDENT OF A FACILITY, THE FACILITY SHALL:~~

- ~~(1) PLACE THE IDENTIFIED REGISTRANT IN A PRIVATE ROOM;~~
- ~~(2) PROVIDE NOTICE TO EMPLOYEES OF THE FACILITY THAT THE IDENTIFIED REGISTRANT IS A RESIDENT OF THE FACILITY; AND~~
- ~~(3) DEVELOP A CARE PLAN TO PROTECT THE OTHER RESIDENTS OF THE FACILITY FROM THE IDENTIFIED REGISTRANT.~~

~~19-2404.~~

~~EACH FACILITY SHALL:~~

~~(1) (i) PROVIDE TO EACH PROSPECTIVE AND CURRENT RESIDENT OR GUARDIAN OF A RESIDENT A WRITTEN NOTICE CONCERNING THE MARYLAND SEX OFFENDER REGISTRY AND THE AVAILABILITY OF THE REGISTRY ON THE WEBSITE OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES;~~

~~(ii) REQUIRE EACH PROSPECTIVE AND CURRENT RESIDENT OR GUARDIAN OF A RESIDENT TO SIGN A STATEMENT ACKNOWLEDGING RECEIPT OF THE WRITTEN NOTICE;~~

~~(iii) PROVIDE EACH PROSPECTIVE AND CURRENT RESIDENT OR GUARDIAN OF A RESIDENT WITH A COPY OF THE SIGNED STATEMENT; AND~~

~~(iv) KEEP A COPY OF THE SIGNED STATEMENT ON FILE FOR AS LONG AS THE RESIDENT RESIDES AT THE FACILITY; AND~~

~~(2) PROMINENTLY DISPLAY A SIGN AT THE ENTRANCE OF THE FACILITY THAT PROVIDES WRITTEN NOTICE CONCERNING THE MARYLAND SEX OFFENDER REGISTRY AND THE AVAILABILITY OF THE REGISTRY ON THE WEBSITE OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.~~

Article – Public Safety

1-401.

(a) There is a Sexual Offender Advisory Board in the Department of Public Safety and Correctional Services.

- (g) The Board shall:
- (1) review technology for the tracking of offenders;
 - (2) review the effectiveness of the State's laws concerning sexual offenders;
 - (3) review the laws of other states and jurisdictions concerning sexual offenders;
 - (4) review practices and procedures of the Maryland Parole Commission and the Division of Parole and Probation concerning supervision and monitoring of sexual offenders;
 - (5) review developments in the treatment and assessment of sexual offenders;
 - (6) develop standards for sexual offender treatment based on current and evolving best practices;
 - (7) certify State sexual offender treatment programs that are in compliance with the Board's standards; [and]
 - (8) provide training for sexual offender management teams; AND
 - (9) **(I) REVIEW THE POLICIES AND PROCEDURES RELATING TO:**
 - 1. ENSURING THE PROTECTION OF RESIDENTS OF NURSING HOMES AND ASSISTED LIVING FACILITIES WHERE ~~CONVICTED~~ SEXUAL OFFENDERS RESIDE OR MAY RESIDE;**
 - 2. NOTIFYING RESIDENTS AND EMPLOYEES OF NURSING HOMES AND ASSISTED LIVING FACILITIES AND FAMILY MEMBERS OF RESIDENTS OF THE PRESENCE OF ~~CONVICTED~~ SEXUAL OFFENDERS WHO RESIDE IN THE NURSING HOME OR ASSISTED LIVING FACILITY;**
 - 3. EMPLOYING SEXUAL OFFENDERS IN NURSING HOMES OR ASSISTED LIVING FACILITIES; AND**
 - 4. REQUIRING LAW ENFORCEMENT NOTIFICATION TO NURSING HOMES AND ASSISTED LIVING FACILITIES IF A SEXUAL OFFENDER RESIDES IN THE NURSING HOME OR ASSISTED LIVING FACILITY;**

(II) REVIEW THE LAWS OF OTHER STATES AND JURISDICTIONS CONCERNING PROTECTING RESIDENTS OF NURSING HOMES AND ASSISTED LIVING FACILITIES FROM SEXUAL OFFENDERS; AND

(III) REVIEW AND REPORT ON THE POTENTIAL IMPACT ON HEALTH CARE PROVIDERS OF RECOMMENDED CHANGES IN POLICIES AND PROCEDURES CONCERNING SEXUAL OFFENDERS IN NURSING HOMES AND ASSISTED LIVING FACILITIES; AND

~~(III)~~ (IV) MAKE RECOMMENDATIONS FOR PROTECTING RESIDENTS AND EMPLOYEES OF NURSING HOMES AND ASSISTED LIVING FACILITIES AND THE FAMILY MEMBERS OF RESIDENTS FROM ~~CONVICTED~~ SEXUAL OFFENDERS.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1, 2011, the Sexual Offender Advisory Board shall report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the Board's findings and recommendations related to the protection of residents and employees of nursing homes and assisted living facilities from ~~convicted~~ sexual offenders.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010. It shall remain effective for a period of 1 year and 3 months and, at the end of December 31, 2011, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 20, 2010.